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Message Text

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ORIGIN ARA-20

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66611
DRAFTED BY: ARA/BC:JEKARKASHIAN
APPROVED BY: ARA:HWSHLAUDEMAN
L:MFELDMAN (INFO)
---------- 100231
R 102145Z DEC 73
FM SECSTATE WASHDC
TO AMEMBASSY SANTIAGO

C O N F I D E N T I A L STATE 241255

C O R R E C T E D C O P Y (OMISSION PARA 6)

E.O. 11652:GDS
SUBJECT; ANACONDA'S CONCERN OVER COPPER TRIBUNAL
TAGS: EIND, CI

1. ANACONDA EXECUTIVES QUIGLEY, BILGORE (VICE PRESIDENT), AND STEINMETZ (ATORNEY) CALLED ON ASSISTANT SECRETARY KUBISCH DECEMBER 7, 1973 TO DISCUSS STATUS COMPENSATION ISSUE AND COMPANY'S APPREHENSION REGARDING POSSIBLE CHILEAN RESORT TO COPPER TRIBUNAL. QUIGLEY SUBMITTED COMPANY MEMO FOR DEPARTMENT'S INFORMATION (COPY POUCHED) EXPRESSING STRONG PREFERENCE FOR DIRECT NEGOTIATIONS VERSUS POSSIBLE RENEWED PROCEEDINGS BEFORE COPPER TRIBUNAL.

2. QUIGLEY AND OTHER COMPANY REPS ACKNOWLEDGED NEW COMPOSITION OF TRIBUNAL BUT EMPHASIZED RISK OF PROLONGED PROCEEDINGS POSSIBLY LASTING FIVE YEARS OR MORE IF THIS ROUTE PRESSED BY CHILEAN NEGOTIATING TEAM. THEY ALSO EXPRESSED SERIOUS CONCERN THAT COMPANY'S ACQUIESCENCE TO PROCEEDINGS BEFORE TRIBUNAL COULD PREJUDICE ITS LITIGATION IN NEW YORK
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AND POSSIBLE FUTURE LITIGATION IN THIRD COUNTRY COURTS.

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3. QUIGLEY STATED COMPANY HAD RECEIVED LETTER FROM AMBAS-
SADOR HEITMANN ADVISING OF PHILIPPI'S APPOINTMENT AS HEAD
OF GOC NEGOTIATING TEAM. HE NOTED PHILIPPI'S EXCELLENT
REPUTATION, BUT SAID LATTER'S TRAINING AS LAWYER AND PRES-
SURE FROM VARIOUS ELEMENTS WITHIN GOC (HE MENTIONED ECONMIN
LENIZ, MINESMIN YOVANE AND CODELCO LAWYERS) FOR USING COPPER
TRIBUNAL ROUTE COULD INFLUENCE PHILIPPI IN THAT DIRECTION.
HE CHARACTERIZED PHILIPPI SELECTION AS COMPROMISE BETWEEN
HARD AND SOFT LINERS IN GOC.

4. QUIGLEY SAID THAT COMPANY HAD RECEIVED NO FURTHER WORD
FROM CHILEANS ON TIMETABLE FOR CONTINUING DISCUSSIONS
INITIATED BY ADMIRAL HUERTA IN NEW YORK ON OCTOBER 8. HE
SAID COMPANY HAD INDICATED AT THAT TIME IT WAS PREPARED TO
ENTER INTO DISCUSSIONS IMMEDIATELY AND HAD BEEN ANXIOUSLY
AWAITING SOME FURTHER WORD AS TO WHEN SUCH DISCUSSIONS
WOULD BEGIN. QUIGLEY OBSERVED CODELCO OFFICIALS HAD
ALREADY SOUGHT TO OBTAIN SOME OF COMPANY'S BEST TECHNICIANS
AS "ADVISORS" TO HELP INCREASE PRODUCTION. APART FROM
COMPANY'S OWN NEED FOR THESE EXPERTS HE WAS UNWILLING
TO RELEASE THEM EXCEPT IN THE CONTEXT OF A BROADER UNDER-
STANDING. QUIGLEY EXPRESSED CONFIDENCE THAT MUTUALLY AC-
CEPTABLE SETTLEMENT COULD BE REACHED VIA DIRECT NEGOTIATION
IN RELATIVELY BRIEF PERIOD. HE ASKED THAT WE BEAR IN MIND
COMPANY'S OPPOSITION TO ANY ATTEMPT TO RENEW PROCEEDINGS
BEFORE COPPER TRIBUNAL ANDHOPED WE COULD INFLUENCE
GOC TO BEND ITS EFFORTS TOWARD PROMPT NEGOTIATION OF
"PACKAGE" SETTLEMENT ENCOMPASSING ALL OUTSTANDING ANACONDA-
GOC DISPUTES.

5. KUBISCH EXPRESSED PLEASURE AT OPPORTUNITY TO DISCUSS
THIS PROBLEM AGAIN WITH COMPANY OFFICIALS. HE THANKED
ANACONDA FOR KEEPING HIM INFORMED AND SAID DEPARTMENT
WOULD TAKE COMPANY'S VIEWS INTO ACCOUNT WHEN WE MET WITH
GOC OFFICIALS ON COPPER AND RELATED MATTERS. HE AGREED
THAT EXPEDITIOUS RESOLUTION OF DISPUTE IS NECESSARY AND
THAT COPPER TRIBUNAL PROCESS, WERE IT TO LAST POSSIBLY 5
YEARS OR MORE AS ANACONDA POSITED, WOULD NOT BE ACCEPTABLE
TO USG. OUR DESIRE, HE SAID, WAS FOR AS EQUITABLE AND FAIR
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A SETTLEMENT FOR ALL PARTIES AS CAN BE NEGOTIATED. OUR
STRONG PREFERENCE, KUBISCH ADDED, WAS THAT USG BE NEITHER
AN INTERMEDIARY BETWEEN COMPANY AND GOC OR PUBLIC DEFENDER
OF COMPANY POSITIONS. HOWEVER, HE NOTED USG CANNOT REMAIN
INDIFFERENT AND WILL EXPECT TO BE KEPT CLOSELY INFORMED IN
ORDER TO ASSIST AS MAY BE NEEDED IN ENSURING THAT PROGRESS
TOWARD SETTLEMENT IS MAINTAINED.

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6. SHLAUDEMAN STATED THAT WE WERE AWARE OF DIFFERING VIEWS WITHIN GOC ON HOW COPPER PROBLEM SHOULD BE HANDLED AND HAD URGED GOC ON SEVERAL OCCASIONS TO MAINTAIN MAXIMUM FLEX-IBILITY IN APPROACHING PROBLEM. HE NOTED, HOWEVER, THAT COPPER TRIBUNAL MIGHT CONCEIVABLY BE USED TO GIVE STAMP OF LEGAL APPROVAL TO PREVIOUSLY NEGOTIATED SETTLEMENT. HE ADDED THAT WE HAD NO INDICATION THAT GOC HAD DECIDED ON RESORT TO COPPER TRIBUNAL AND THAT IT WAS OUR UNDER-STANDING THAT DIRECT NEGOTIATIONS WITH COMPANIES WAS STILL THE PROCEDURE MOST LIKELY TO BE ADOPTED. QUIGLEY OBSERVED THAT ANACONDA ALSO HAD NO SUCH INDICATION THAT TRIBUNAL COURSE HAD BEEN DECIDED ON. IN FACT LANGUAGE OF HEITMANN LETTER ANNOUNCING PHILIPPI APPOINTMENT LENT CREDENCE TO CHILEAN INTENTION TO ENGAGE IN DIRECT NEGOTIATIONS.

7. IN ANSWER TO QUESTION FROM FELDMAN, STEINMETZ INDICATED COMPANY'S NEW YORK LITIGATION TO BE IN PASSIVE STAGE AND WOULD NOT BE ACTIVATED BY COMPANY WITHOUT CAUSE. QUIGLEY ASSURED THAT COMPANY WANTED TO TAKE NO FURTHER ACTION ON LITIGATION AT THIS POINT IN ORDER TO AVOID PREJUDICING NEGOTIATING CLIMATE. RUSH

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Message Attributes

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